

REMARKS

Reconsideration of the application is requested.

Claims 8-14 remain in the application. Claims 8-14 are subject to examination.

It is somewhat difficult to understand exactly which portions of the prior art the Examiner has referenced, exactly how the Examiner is alleging the prior art would have been combined, and what would have motivated one to combine the prior art. Applicant would appreciate the opportunity to hold a telephone interview with the Examiner so that applicant could at least fully understand the position of the Examiner before deciding whether or not to file an appeal and so that applicant could perhaps better explain his position as well.

Applicant does appreciate the detailed comments provided under the section entitled "Response to Arguments". As will be explained below, applicant disagrees with the Examiner in many aspects and does not fully understand the position of the Examiner.

Under the heading "Claim Rejections – 35 USC § 103" on page 7 of the above-identified Office Action, claims 8-11 have been rejected as being obvious over U.S. Publication No. 2003/0053420 to Duckett et al. in view of U.S. Publication No. 2004/0176992 to Santos et al. in further view of U.S. Publication No.

2003/0061305 to Copley et al. under 35 U.S.C. § 103. Applicant respectfully traverses.

Claim 8 includes a step of: replaying the recording of at least one of the choices selected by the user in the perspective of the user and in correlation with the statistical information in a browser simulator. The Examiner has alleged that Santos et al. would have suggested modifying the teaching in Duckett et al. such that the referenced step of claim 8 would have been obvious in combination with the other claimed steps.

In the rejection of claim 8, the Examiner has not provided any reason to support the assertion that one of ordinary skill in the art would have been motivated to modify the teaching in Duckett et al. based on that of Santos et al. For this reason, the Examiner has failed to adequately support the rejection as required by the MPEP and the rejection should be overturned.

The Examiner has merely stated that the claimed limitation is well known. Applicant asserts that the issue is not whether an individual method step is well known, but rather whether the prior art would have suggested incorporating the claimed step along with the other steps in the manner specified by claim 8.

In the response to arguments section of the Office action, the Examiner has now for the first time referenced a load testing feature taught by Duckett et al. The Examiner has also made statements alleging that Duckett et al. teach a

behavior model and compares this so-called behavior model with the behavior model of Santos et al. The Examiner states that Santos et al organize the actions after they have been collected, and that the benefit of segmentation is to be able to assign ratings to websites. The Examiner then states that it would have been obvious to have modified Duckett's so-called behavior model to include the ability to segment its users.

It is difficult to follow the logic of the Examiner in the response to arguments section. Is the Examiner alleging that Santos et al. would have suggested modifying the load testing feature of Duckett et al. by using particular segments? If that is the case, applicant believes such a modification would not make sense. It is unlikely that one would want to perform a load test with only one type of customer. In the real world, many different types of customers would access a website at the same time. Duckett et al.'s load testing is superior without such a modification because it uses recordings many different types of "real users". One of ordinary skill in the art would not have obtained a suggestion to use a statistical representation of only one particular type of customer when performing a load test.

In the actual rejection of claim 8 on pages 7-9 of the Office action, the Examiner has referenced paragraphs 156 and 194 of Duckett et al.

Paragraph 156 of Duckett et al. appears to relate to the load testing function and this has already been discussed.

Paragraph 194 of Duckett et al. simply teaches that the recorded actions taken by the user can be replayed so that the actions of a particular user can be reviewed. The teaching in Santos et al. does not suggest aggregating the actions of a number of users for any purpose that would be relevant to reviewing the actions of a particular user. Santos et al. teach aggregating the actions of a number of users to create a behavior model that is used to statistically represent the actions of a particular type of customer in order to obtain a rating or ranking for a website. This is simply irrelevant to reviewing the actions of a particular user.

Santos et al. do not suggest modifying Duckett et al. by somehow incorporating a step of: replaying the recording of at least one of the choices selected by the user in the perspective of the user and in correlation with the statistical information in a browser simulator.

Under the heading "Claim Rejections – 35 USC § 103" on page 9 of the above-identified Office Action, claims 12 and 13 have been rejected as being obvious over U.S. Publication No. 2004/0176992 to Santos et al. in view of U.S. Patent No. 7,296,080 to Rowley et al. under 35 U.S.C. § 103. Applicant respectfully traverses.

Santos et al. teach using consumer data to create a behavior model 56 that represents the actions of a particular segment of customers, i.e. a particular group or type of customers (See paragraph 14). This behavior model 56

determines the transactions that are performed between the agent 20 and the website 30 (See paragraph 14). A rating, which is associated with this particular customer segment, is determined for the website 30 and is made available to potential customers of such websites (See paragraph 31). Paragraph 5 also provides a good summary of the teaching.

Rowley et al. capture the packets when they are transmitted and then process the packets at a later time to re-create and display what the user saw (See column 3, lines 28-29 and column 6, lines 5-18). Applicant believes that contrary to the allegation of the Examiner, the teaching in Rowley et al. is not that close to the teaching in Santos et al.

The Examiner has merely referenced certain paragraphs or lines in the prior art without comparing specific features of the prior art with claimed features. This makes it somewhat difficult to be sure that one is following the Examiner's logic. In particular, the Examiner has alleged that Santos et al. teach a step of statistically compiling the recalled stored actions. Applicant is not exactly sure what the Examiner considers to be the statistically compiled actions. Applicant has assumed that the stored actions would be the "consumer data" (See paragraph 14) and that the step of statistically compiling the recalled stored actions would be the actions needed to create the behavior model 56 (See paragraph 14). Applicant respectfully requests that the Examiner specifically identify the exact components or features of the prior art that are being compared with claimed features.

Assuming that the Examiner does in fact consider the stored actions to be the “consumer data” of Santos et al., then in order to meet the last step of claim 12, it is the consumer data or perhaps the behavior model that would have to be displayed. Rowley et al. certainly do not teach displaying “consumer data” or displaying a behavior model, but rather teach re-creating and displaying what the user saw when the user interacted with a website.

Applicant will now discuss the matter in more detail. Claim 12 includes a step of: statistically compiling the recalled stored actions. In alleging that Santos et al. teach such a step, the Examiner has cited paragraphs 16 and 20 of Santos et al. Paragraphs 16 and 20 of Santos et al. describe the behavior model 56 that is constructed for different segments of website customers, and the types of transactions that the behavior model will perform with a website 30. The Examiner has not explicitly explained what is considered to be the statistically compiled actions. Applicant assumes that the Examiner’s opinion is that the customer data, which is analyzed to create the behavior model 56, is statistically compiled to create the behavior model 56. If this is the case, Rowley do not teach or suggest displaying such consumer data or such a behavior model 56, and therefore the invention as defined by claim 12 would not have been suggested.

In the Response to Arguments, the Examiner stated, “Santos and Rowley both are directed towards collecting user actions with a website and using those

actions to simulate interaction with a website.” Applicant again points out that Santos et al. collect user actions (Santos et al. characterize these so-called user actions as consumer data) in order to create the behavior model 56, whereas Rowley et al. collect user actions so that what the user saw on his/her display screen can be re-created and displayed. Nothing in Rowley et al teaches or suggests displaying the consumer data or the behavior model of Santo et al.

In the Response to Arguments, the Examiner also stated, “Applicant incorrectly asserts that the modification is displaying Santos’ behavior model. In actuality, the proposed combination would modify Santos’ simulation (which is based on the behavior model) to include a display of that simulation as taught by Rowley”. One might conclude that the Examiner is alleging that it is the transactions (See paragraphs 19 and 20) that the behavior model will perform with the website that will be displayed. These transactions are just part of the behavior model and as already stated, Rowley et al. do not teach or suggest displaying a model. As the transactions are performed in accordance with the behavior model, the exerciser 24 will collect the website performance data (See paragraph 21). Contrary to claim 12, however, this website performance data is not obtained by statistically compiling recalled stored actions from all indexed recorded data matching the index criteria.

Moving on to another issue, applicant believes that the Examiner has not put forth a valid reason that would have motivated one of ordinary skill in the art to make the combination asserted by the Examiner.

The Examiner alleges that displaying statistically compiled actions on a display, was known and cites Rowley et al. Applicant points out that Rowley et al. do not display statistically compiled actions. Rowley et al. teach displaying what a user saw when interacting with a website. There is no statistical compilation comparable to the aggregation of customers into groups or types as taught by Santos et al.

The Examiner has further stated that, "Rowley improves upon Santo's invention by including a display that allows users to graphically view the actions of the simulation. One benefit of a display is that it enables users to quickly navigate through the actions of the simulation [Rowley, column 7 <<lines 15-17>>].

Modifying Santos to include a display (to display Santos' statistically compiled actions) is merely an example of using a known technique (Rowley's display of a simulation of collected user actions) to improve similar devices (Santos' simulation of statistically compiled user actions) in the same way (allow users of Santos system to view the simulation).

Applicant asserts that Rowley et al. do not teach or suggest displaying the aggregated actions of a group of customers that are performed due to the behavior model 56 of Santos et al. Rowley et al. teach capturing packets that

are transmitted over a network between a computer user and network source during an actual web session. The real-time communication that takes place is not a simulation in the sense of Santos et al. The so-called simulation occurs when the captured packets are subsequently processed in order to recreate the actual network communication session that previously took place (See column 1, line 50 through column 2, line 32). Once the packets have been processed, the actual web page 700 that was previously viewed by the user during the network communication is displayed on a computer monitor 209 (See column 6, lines 5-18). There is nothing in the teaching of Rowley et al. that would have suggested displaying the interaction or transactions, which are dependent on the behavior model 56, and which occur between the exerciser 24 of the agent 20 and the website 30. Rowley et al. are concerned with providing a potential website customer (see the last sentences of paragraphs 21 and 24) with an objective rating of websites based on the interaction or transactions between the exerciser 24 of the agent 20 and the websites 30. Rowley et al. are not concerned with providing information to an administrator.

Furthermore, the fact that the display of Rowley et al. enables a user to quickly navigate through the web pages that were viewed by the user (the Examiner appears to allege this would motivate one to display the statistically compiled actions of Rowley et al.) is of no concern to Santos et al. Santos et al. do not display these actions to begin with so being able to more quickly navigate through displayed actions could not be a motivating factor.

Under the heading “Claim Rejections – 35 USC § 103” on page 11 of the above-identified Office Action, claim 14 has been rejected as being obvious over U.S. Publication No. 2004/0176992 to Santos et al. and U.S. Patent No. 7,296,080 to Rowley et al. in view of U.S. Patent No. 6,877,007 to Hentzel et al. under 35 U.S.C. § 103. Applicant respectfully traverses.

Claim 14 includes a browser simulator configured to take data from said behavior organization module and to display a browser simulation based on said compiled data representing the browser behavior of at least some of the plurality of visitors.

The Examiner has alleged that the data mining system 16 of Santos et al. can be compared with the claimed behavior organization module. It then appears that the Examiner is alleging that the behavior model 56 of Santos et al. can be compared with the claimed browser simulator. Applicant points out that the behavior model 56 of Santos et al. does not take data from the data mining system 16 of Santos et al. Rather it is the data mining system 16 that creates the behavior model 56 based on an analysis of the customer data (See paragraph 28). The invention as defined by claim 14 could not have been suggested by the cited prior art for this reason alone.

Additionally, applicant incorporates the arguments given above with regard to claim 12 and asserts that Rowley et al. do not suggest displaying a browser simulation based on the compiled data representing the browser behavior of at

least some of the plurality of visitors. Applicant points out that the compiled data of Santos et al. is the consumer data that is used to create the behavior model.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 8, 12, or 14. Claims 8, 12, and 14 are, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 8 or claim 12.

In view of the foregoing, reconsideration and allowance of claims 8-14 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Please charge any fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Sterner LLP, No. 12-1099.

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Respectfully submitted,

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